

HOUSE BILL 367

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC RECORDS; REQUIRING THE STATE COMMISSION OF PUBLIC RECORDS TO ADOPT REGULATIONS LIMITING THE CREATION AND DISTRIBUTION OF PUBLIC RECORDS IN ELECTRONIC FORMAT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 2-3-14.1 NMSA 1978 (being Laws 1985, Chapter 19, Section 1) is amended to read:

"2-3-14.1. STATE AGENCIES--REPORTS.--

A. No state agency shall submit or send to the members of the legislature any material, other than proposed legislation, in excess of five pages, and no state agency shall send any material to members of the public, public employees or governmental entities unless the material is in electronic form or is specifically requested by the recipient, nor shall the material be published by printing for distribution. A

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underscored material = new
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1 violation of the prohibition against sending materials to the
2 legislature shall result in a ten percent reduction in the
3 salary of the cabinet secretary or division director
4 responsible.

5 B. Nothing in this section shall limit the response
6 of any agency to a direct request of a legislator or group of
7 legislators ~~[nor]~~ or the submission of the executive budget.

8 C. All reports to the legislature by a state agency
9 shall be filed in duplicate with the legislative council
10 service, and such reports shall not be subject to the page
11 limitations of this section. Prior to each regular legislative
12 session, the legislative council service shall compile a list
13 of the reports submitted ~~[prior to each regular legislative~~
14 ~~session]~~ since the beginning of the previous regular session,
15 listing the title and agency ~~[and]~~. The legislative council
16 service shall distribute the list ~~[among the]~~ to legislators
17 during the first week of the session.

18 D. Any legislator may request any report, including
19 those listed pursuant to Subsection C of this section. Upon
20 such a request, the state agency shall furnish the report to
21 the legislator, in electronic format if approved by the
22 requesting legislator and pursuant to regulations of the state
23 commission of public records.

24 E. Compliance by a state agency with Subsection C
25 of this section shall fulfill any requirement of a state agency

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1 to report to the legislature, unless the requirement is
2 specifically exempted from the requirements of this section.

3 F. No state agency shall submit material bound
4 other than by staples unless the bulk or other qualities of the
5 material require other bindings; provided that, in all cases,
6 the most economical method of binding and packaging shall be
7 used.

8 G. For the purposes of this section, "state agency"
9 means any agency, division or instrumentality of the state but
10 does not include political subdivisions and educational
11 institutions or any of the legislature's [~~divisions~~] divisions,
12 instrumentalities or committees."

13 Section 2. Section 14-3-2 NMSA 1978 (being Laws 1959,
14 Chapter 245, Section 2, as amended) is amended to read:

15 "14-3-2. DEFINITIONS.--As used in the Public Records Act:

16 A. "administrator" means the state records
17 administrator;

18 B. "agency" means any state agency, department,
19 bureau, board, commission, institution or other organization of
20 the state government, the territorial government and the
21 Spanish and Mexican governments in New Mexico;

22 C. "commission" means the state commission of
23 public records;

24 D. "microphotography" means the transfer of images
25 onto film and electronic imaging or other information storage

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1 techniques that meet the performance guidelines for legal
2 acceptance of public records produced by information system
3 technologies pursuant to regulations adopted by the commission;

4 E. "microphotography system" means all
5 microphotography equipment, services and supplies;

6 F. "personal identification information" means the
7 name; social security number; military identification number;
8 home address; telephone number; email address; fingerprint;
9 photograph; identifying biometric data; genetic identification;
10 personal financial account number; state identification number,
11 including driver's license number; alien registration number;
12 government passport number; personal taxpayer identification
13 number; or government benefit account number of a natural
14 person;

15 G. "public records" means all books, papers, maps,
16 photographs or other documentary materials, regardless of
17 physical form or characteristics, including electronic format
18 public records pursuant to regulations of the commission, made
19 or received by any agency in pursuance of law or in connection
20 with the transaction of public business and preserved, or
21 appropriate for preservation, by the agency or its legitimate
22 successor as evidence of the organization, functions, policies,
23 decisions, procedures, operations or other activities of the
24 government or because of the informational and historical value
25 of data contained therein. Library or museum material of the

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1 state library, state institutions and state museums, extra
2 copies of documents preserved only for convenience of reference
3 and stocks of publications and processed documents are not
4 included;

5 H. "records center" means the central records
6 depository that is the principal state facility for the
7 storage, disposal, allocation or use of noncurrent records of
8 agencies or materials obtained from other sources;

9 I. "records custodian" means the statutory head of
10 the agency using or maintaining the records or the custodian's
11 designee; and

12 J. "records retention and disposition schedules"
13 means rules adopted by the commission pursuant to Section
14 14-3-6 NMSA 1978 describing records of an agency, establishing
15 a timetable for their life cycle and providing authorization
16 for their disposition."

17 Section 3. Section 14-3-4 NMSA 1978 (being Laws 1959,
18 Chapter 245, Section 4) is amended to read:

19 "14-3-4. DUTIES AND POWERS OF COMMISSION.--It shall be
20 the duty of the commission to:

21 A. employ as state records administrator a
22 competent, experienced person professionally trained as an
23 archivist and records manager who shall serve at the pleasure
24 of the commission. [He] The administrator need not be a
25 resident of New Mexico at the time of [his] employment. [His]

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1 The administrator's salary shall be fixed by the commission;

2 B. approve the biennial budget covering costs of
3 the operations set forth in [~~this~~] the Public Records Act, as
4 prepared by the administrator for presentation to the state
5 legislature;

6 C. decide, by majority vote, any disagreements
7 between the administrator and any state officer regarding the
8 disposition of records within the custody of [~~said~~] the
9 officer, such decisions to have the effect of law;

10 D. consider the recommendations of the
11 administrator for the destruction of specifically reported
12 records and by unanimous vote either order or forbid such
13 destruction;

14 E. approve in writing, or reject, the written terms
15 and conditions of each proposed loan of documentary material to
16 the records center, as agreed upon by the lender and the
17 administrator;

18 F. adopt and publish rules and regulations to carry
19 out the purposes of the Public Records Act;

20 G. request any agency to designate a records
21 liaison officer to cooperate with, assist and advise the
22 administrator in the performance of [~~his~~] the administrator's
23 duties and to provide such other assistance and data as will
24 enable the commission and administrator properly to carry out
25 the purposes of the Public Records Act; [~~and~~]

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